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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,047	03/26/2001	Ebrahim Rezai	AA348X	4885

27752 7590 03/10/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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EXAMINER

WACHTEL, ALEXIS A

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 03/10/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/806,047	Applicant(s) REZAI ET AL.	
	Examiner Alexis Wachtel	Art Unit 4771 1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____                                    |

***Detail of Action***

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,940,464 to Van Gompel et al in view of JP Pub 03158236 to Masahiko.

Van Gompel discloses a disposable pant-like garment for absorbing human discharge and comprises an absorbent assembly comprising a liquid-impervious outer cover (backsheet), liquid pervious liner (topsheet) and an absorbent core contained there between. The garment has a pair of stretchable side panels and generally opposite end edges (Abstract). Examiner notes that said garment inherently has a longitudinal center line, longitudinal edges, a front, back and crotch region. Said garment has seams joining the chassis to the side panels (Col 3, lines 25-33). Said garment's side panels are stretchable and have front and rear portions that are connected by side seams (Col 3, lines 20-25, Fig.1). The stretchable side panels can be made of an elastic woven or nonwoven or film. Said stretchable side panels can be a stretch bonded laminate. Such a laminate generally comprises an elastic layer disposed between two nonwoven layers. (Col 4, lines 54-66). The nonwoven layers can be made of spunbonded or thermally bonded polyolefins and polyesters (Col 5, lines 1-8). Examiner notes that spunbonded nonwovens make use of continuous synthetic fibers.

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Van Gompel et al as set forth above fails to teach that the nonwoven layers have a preferred fiber orientation. Masahiko teaches a laminate having a thermoplastic rubber layer and a nonwoven layer having fibers, such as polypropylene or polyester arranged longitudinally in parallel or zigzag direction. The laminate has high flexibility and waterproofness (Abstract). In view of this teaching it would have been obvious for one of ordinary skill to have used the disclosed nonwoven in place of Van Gompel et al's nonwoven motivated by the desire to improve the flexibility and waterproofness of the garment side panels. Regarding claims 1,4,10,11 and 16, the claimed fiber orientation ratios are all inherent given that Van Gompel et al and Masahiko teach a garment using a nonwoven having fibers arranged in the longitudinal direction.

Regarding claims 2,3,14 and 15, although the claimed Tensile Strength Ratio and stress at 30% elongation are not explicitly taught by Van Gompel et al and Masahiko, it is reasonable to presume that said limitations would be met by the combination of the two references. Support for said presumption is found in the use of similar materials (i.e. elastic nonwoven sandwiched in between two non-elastic nonwovens made having a preferred fiber direction) and in the similar production steps (i.e. lamination of said elastic nonwoven in between two non-elastic nonwoven layers) used to produce the double faced velour fabric. The burden is upon the Applicant to prove otherwise.

The references as set forth above fail to teach the claimed basis weight of the non-elastic nonwoven. However, the basis weight is a variable dependent on practical applications. Too heavy of a basis weight results with a product that is too heavy, bulky

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and uncomfortable. Too light of a basis weight results with a product that is too weak to perform adequately. Based on this, it would have been obvious for one of ordinary skill to optimize this result effective variable which would naturally lead one to the claimed values, especially since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, *In Re Aller*, 105 USPQ 233.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,940,464 to Van Gompel et al in view of JP Pub 03158236 to Masahiko in view of US 6,231,976 B1 to Dean et al.

Regarding claim 9, Van Gompel et al and Masahiko fail to teach that the fibers in the non-elastic nonwoven are bicomponent fibers. Dean et al teaches that bicomponent binder fibers can be used to make nonwovens to eliminated the need for a separate adhesive (Col 3, lines 25-40). In view of this teaching, it would have been obvious for one of ordinary skill to have used bicomponent binder fibers to make the non-elastic nonwoven. One of ordinary skill would have been motivated by the desire to reduce the amount of time used to make the non-elastic nonwoven.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 10:30am to 6:30pm.


If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Terrel Morris, can be reached at (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Terrel Morris", is positioned above the printed name.

TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700